

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

GLORIA HICKS, *Executrix of the Estate
of Malcolm W. Hicks, deceased*

Plaintiff,

VS.

BALLY TOTAL FITNESS CORP.,

Defendant.

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CIVIL ACTION NO. H-08-3518

ORDER OF DISMISSAL

Defendant, Bally Total Fitness Corporation, filed a petition in the United States Bankruptcy Court for the Southern District of New York as Case No. 08-14818 on December 3, 2008. A petition filed under 11 U.S.C. §§ 301, *et seq.*, operates as a stay of the continuation of a judicial proceeding against the debtor that was commenced before the initiation of the bankruptcy proceeding. 11 U.S.C. § 362(a)(1). Accordingly, this case is dismissed without prejudice. Plaintiff may reinstate this case upon notice to this court of the discontinuance of the stay pursuant to 11 U.S.C. § 362(c)(2), provided such notice is filed within 30 days after the bankruptcy stay is discontinued.

SIGNED on January 9, 2009, at Houston, Texas.


Lee H. Rosenthal

United States District Judge